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4 **UNITED STATES DISTRICT COURT**  
5 **SOUTHERN DISTRICT OF CALIFORNIA**  
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8 IN RE HYDROXYCUT MARKETING  
9 AND SALES PRACTICES LITIGATION

CASE NO. 09md2087 BTM (KSC)

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11 ANDREW DREMAK, on Behalf of  
12 Himself, All Others Similarly Situated and  
the General Public,

CASE NO. 09cv1088 BTM(KSC)

13 Plaintiff,

**ORDER GRANTING IN PART AND  
DENYING IN PART MOTION TO  
QUASH DEPOSITION SUBPOENA**

14 v.

15 IOVATE HEALTH SCIENCES GROUP,  
16 INC., et al.,

17 Defendants.  
18

19 Objectors Sasha McBean and Tim Blanchard ("Objectors"), as well as their attorney  
20 Darrell Palmer, have moved to quash deposition subpoenas served on them by Co-Lead Class  
21 Counsel. On April 23, 2013, the Court entertained oral argument on the motion to quash. For  
22 the reasons discussed below, the motion to quash is **GRANTED IN PART** and **DENIED IN**  
23 **PART**.

24 As discussed at the hearing, the Court **GRANTS** the motion to quash with respect to the  
25 subpoena directed to attorney Darrell Palmer. The Court does not believe that it would be  
26 productive or appropriate for Class Counsel to conduct discovery on Mr. Palmer.

27 The Court takes a different view with respect to the Objectors themselves. The  
28 Objectors are not just absent class members, but, rather, have inserted themselves in the

1 litigation by filing objections. Under Rule 26(b), discovery of non-privileged material is  
2 permissible if it is “relevant to the claim or defense of any party” and “appears reasonably  
3 calculated to lead to the discovery of admissible evidence.” The Court concludes that some of  
4 the information sought from Objectors by Class Counsel is relevant to the settlement issues  
5 before the Court. See In re Cathode Ray Tube (CRT) Antitrust Lit., 281 F.R.D. 531, 533 (N.D.  
6 Cal. 2012) (holding that discovery sought from objectors was relevant to the settlement  
7 pending before the court).

8 Because Mr. Palmer is what some courts call a “serial” or “professional” objector and has  
9 represented objectors in numerous cases, Ms. McBean and Mr. Blanchard have filed objections  
10 in other cases, there is a question whether Ms. McBean resides at the address used on the  
11 claim form, and the claim form provides no factual information regarding class membership,  
12 Class Counsel’s concern regarding the standing of Ms. McBean and Mr. Blanchard is justified.  
13 In order to establish whether the Objectors are indeed class members and have standing, the  
14 Court will allow an evidentiary hearing on the issue.

15 The Court will also allow limited discovery on the issue of intent and motive of the  
16 Objectors. The Court is not of the opinion that motive directly relates to the merits of the  
17 objections. See, e.g., In re Paper Antitrust Lit., 751 F.2d 562, 587 (3d Cir. 1984) (“We fail to  
18 see how motives of the objectors . . . would make any fact of consequence to the determination  
19 of reasonable fees more or less probable.”) However, motive and intent may have bearing on  
20 the issue of the Objectors’ credibility with respect to the issue of standing.

21 Accordingly, the Court orders that the Objectors appear for an evidentiary hearing on  
22 **May 29, 2013 at 11:00 a.m.** If Mr. Blanchard wishes to appear via video conference, Mr.  
23 Palmer should coordinate with the Court to make the appropriate arrangements. At the  
24 hearing, Class Counsel may ask the Objectors questions regarding standing – e.g., what  
25 Hydroxycut product was purchased, when it was purchased, where it was purchased, etc.  
26 Objectors may also ask questions regarding objections made by the Objectors in other cases  
27 within the past five years, rulings made regarding the objections, and any monetary  
28 compensation received by the Objectors in connection with the objections.

1 Objectors are ordered to produce the following documents to Blood Hurst & O'Reardon,  
2 LLP on or before **May 22, 2013**:

3 1. All documents evidencing a purchase of a Hydroxycut product between May 9, 2006  
4 and May 1, 2009.

5 2. All documents relating to any objection filed by Ms. McBean or Mr. Blanchard in any  
6 class action proceeding within the last five years.

7 3. All documents relating to monetary compensation received by Ms. McBean or Mr.  
8 Blanchard in connection with any objection filed within the past five years.

9 At the same time as production of the documents, Objectors shall provide a privilege log  
10 identifying all documents to which they claim any privilege or work product protection. The  
11 privilege log must describe the nature of the documents, communications, or tangible things  
12 and provide sufficient information to enable Class Counsel to assess their claims.

13 **IT IS SO ORDERED.**

14 DATED: April 29, 2013

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16 BARRY TED MOSKOWITZ, Chief Judge  
17 United States District Court  
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